

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DERRICK HINES §
VS. § CIVIL ACTION NO. 1:20cv164
BEAUMONT POLICE DEP'T, ET AL. §

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Derrick Hines, an inmate at the Jefferson County Correctional Facility, proceeding *pro se*, brought this civil rights suit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. A copy of the report and recommendation was mailed to plaintiff at the address provided to the court. Plaintiff acknowledged receipt of the report and recommendation on July 7, 2020. No objections to the Report and Recommendation of United States Magistrate Judge have been filed.

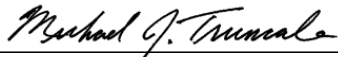
Plaintiff was warned of the potential dismissal of his lawsuit for failing to comply with the order to submit a proper application to proceed *in forma pauperis*. Such warning, however, has proven futile in prompting the diligent prosecution of this case. The court has considered lesser sanctions but finds no lesser sanction appropriate because plaintiff has failed to comply

with the initial requirement for all litigants, to pay the required filing fee or, as required under the PLRA, submit a properly certified application to proceed *in forma pauperis* and pay an initial partial filing fee. The dismissal of this action will be without prejudice, and plaintiff is not barred by the applicable two-year statute of limitations. Therefore, plaintiff may refile his lawsuit after obtaining the proper information necessary for the court to determine his eligibility to proceed on an *in forma pauperis* basis.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report and recommendation of the magistrate judge is **ADOPTED**. A separate final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this 20th day of September, 2020.



Michael J. Truncale
United States District Judge